

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

RAYMOND CHAD WATKINS,

Petitioner,

v.

TUOLUMNE COUNTY SUPERIOR
COURT,

Respondent.

No. 1:23-cv-01450-JLT-SKO (HC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS
(Doc. 5)

ORDER DISMISSING PETITION FOR WRIT
OF HABEAS CORPUS AND DIRECTING
CLERK OF COURT TO ENTER JUDGMENT
AND CLOSE CASE

ORDER DECLINING TO ISSUE
CERTIFICATE OF APPEALABILITY

Raymond Chad Watkins is a state prisoner proceeding *pro se* and *in forma pauperis* with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

The magistrate judge issued findings and recommendations to dismiss the petition and abstain from interfering in ongoing state proceedings. (Doc. 6.) Petitioner filed objections. (Doc. 6.) Petitioner complains that he is not being given reasonable accommodations that would enable him to pursue various legal remedies. (*Id.*) As noted by the magistrate judge, such claims concern conditions of confinement and must be raised by way of a civil rights complaint. With respect to his claims concerning his ongoing state criminal proceedings, Petitioner fails to demonstrate that the state courts do not provide an adequate forum for redress. Among other things, Petitioner claims that the appellate court has refused to file his notice of appeal. This is

1 understandable, as there does not appear to be a state court judgment from which to appeal.
2 Petitioner does not state that he is precluded from filing a state habeas petition at any level of the
3 state courts or that he is barred from presenting his complaints to the trial court, either on his own
4 or through his attorney. Petitioner's other various complaints as to trial court rulings in his
5 ongoing state proceeding are also not properly before this Court.

6 Accordance to 28 U.S.C. § 636 (b)(1)(C), the Court has conducted a *de novo* review of the
7 case. Having carefully reviewed the entire file, including Petitioner's objections, the Court
8 concludes that the findings and recommendations are supported by the record and proper analysis.

9 In addition, the Court declines to issue a certificate of appealability. A state prisoner
10 seeking a writ of habeas corpus has no absolute entitlement to appeal a district court's denial of
11 his petition, and an appeal is only allowed in certain circumstances. *Miller-El v. Cockrell*, 537
12 U.S. 322, 335-336 (2003). The controlling statute in determining whether to issue a certificate of
13 appealability is 28 U.S.C. § 2253, which provides as follows:

14 (a) In a habeas corpus proceeding or a proceeding under section 2255 before a
15 district judge, the final order shall be subject to review, on appeal, by the court of
appeals for the circuit in which the proceeding is held.

16 (b) There shall be no right of appeal from a final order in a proceeding to test
17 the validity of a warrant to remove to another district or place for commitment or
18 trial a person charged with a criminal offense against the United States, or to test
the validity of such person's detention pending removal proceedings.

19 (c) (1) Unless a circuit justice or judge issues a certificate of appealability, an
appeal may not be taken to the court of appeals from—

20 (A) the final order in a habeas corpus proceeding in which the
21 detention complained of arises out of process issued by a State
court; or

22 (B) the final order in a proceeding under section 2255.

23 (2) A certificate of appealability may issue under paragraph (1) only if the
24 applicant has made a substantial showing of the denial of a constitutional
25 right.

26 (3) The certificate of appealability under paragraph (1) shall indicate which
27 specific issue or issues satisfy the showing required by paragraph (2).

28 If a court denies a habeas petition, the court may only issue a certificate of appealability

1 when a petitioner makes a substantial showing of the denial of a constitutional right. 28 U.S.C.
2 § 2253(c)(2). To make a substantial showing, the petitioner must establish that “reasonable
3 jurists could debate whether (or, for that matter, agree that) the petition should have been resolved
4 in a different manner or that the issues presented were ‘adequate to deserve encouragement to
5 proceed further.’” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (quoting *Barefoot v. Estelle*, 463
6 U.S. 880, 893 (1983)).

7 In the present case, the Court finds that Petitioner has not made the required substantial
8 showing of the denial of a constitutional right to justify the issuance of a certificate of
9 appealability. Reasonable jurists would not find the Court’s determination that Petitioner is not
10 entitled to federal habeas corpus relief debatable, wrong, or deserving of encouragement to
11 proceed further. Thus, the Court declines to issue a certificate of appealability. Accordingly,

- 12 1. The findings and recommendations issued on October 11, 2023, (Doc. 5), are
13 **ADOPTED IN FULL.**
- 14 2. The petition for writ of habeas corpus is **DISMISSED.**
- 15 3. The Clerk of Court is directed to provide Petitioner with blank civil rights
16 complaint forms.
- 17 4. The Clerk of Court is further directed to enter judgment and close the case.
- 18 5. The Court declines to issue a certificate of appealability.

19
20 IT IS SO ORDERED.

21 Dated: **October 24, 2023**


UNITED STATES DISTRICT JUDGE